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**DECISION**



20638 11/16/82  
**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

**FILE:** B-205859

**DATE:** January 25, 1982

**MATTER OF:** ManTech International Corporation

**DIGEST:**

The Small Business Administration (SBA), and not GAO, is statutorily empowered to decide size status and size standards matters, and in the absence of an SBA ruling that the size standard contained in the solicitation was erroneous, GAO has no basis for concluding that the solicitation was defective because of the size standard included therein. Moreover, it is not GAO's function to second-guess the SBA's Size Appeals Board with respect to what its own procedures allow it to do.

ManTech International Corporation protests the award of any contract under Request for Proposals (RFP) No. N00039-81-R-0236, issued by the Department of the Navy for various engineering and technical services, on the ground that the Small Business Administration's (SBA) Size Appeals Board has arbitrarily refused to correct its decision, which was based on erroneous information, in connection with the proper size standard to be applied to this procurement. We dismiss the protest.

The RFP, issued as a small business set-aside, contained a Standard Industrial Classification (SIC) for "Engineering, Architectural, and Surveying Services." The SIC set forth in terms of annual receipts for the preceding three fiscal years the size of business allowed to participate in this procurement. ManTech appealed the Navy's inclusion of this SIC in the RFP to the Size Appeals Board, asserting that another SIC concerning "Management Consulting, and Public Relations Services," which has a substantially smaller size standard than the RFP's SIC, should have been used for this procurement. The Size Appeals Board denied ManTech's appeal. Subsequently, the Navy, in response to the Board's decision, informed SBA that the Board had misunderstood the information the Navy had provided and that

in fact the work, when done in-house, was not done by engineers. Although ManTech thereafter promptly petitioned the Board for reconsideration, the Board dismissed the petition as untimely filed because the petition was not filed within 10 days of the protester's receipt of the Board's formal decision as required by 13 C.F.R. § 121.3-6(g)(1) (1961).

The SBA is statutorily empowered to determine conclusively matters of small business size status for Federal procurement purposes, 15 U.S.C. § 637(b)(6) (1976); 53 Comp. Gen. 434, 438 (1973). For that reason, we normally do not consider challenges to SBA determinations concerning the propriety of the size standard used in a particular procurement. Kappa Systems, Inc., B-183036, May 20, 1975, 75-1 CPD 305. ManTech, however, asserting that the Size Appeals Board not only relied on erroneous information but obtained it from the Navy ex parte, requests that we intervene to have the RFP canceled to prevent this "arbitrary action and \* \* \* abuse of discretion by the \* \* \* Board."

We do not agree that this case is an appropriate one for us to recommend cancellation of the RFP. As indicated, it is SBA, and not this Office, which is statutorily empowered to decide size status and size standards matters and in the absence of an SBA ruling that the RFP's size standard was erroneous, we have no basis for concluding that the RFP was defective because of the size standard included therein. Moreover, we do not believe it is our function to second-guess the Board with respect to what its own procedures allow it to do. Rather, a challenge to the Board's actions here more properly should be brought to a Federal district court. See SMI/New York, B-198542.2, June 17, 1980, 80-1 CPD 424.

The protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel